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THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the Commission for the Defence of Human Rights in Central America, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[27 July 1994]

GE.94-13332(EXT)

1. The Commission for the Defence of Human Rights in Central America (CODEHUCA) is writing to the Sub-Commission to report on the situation regarding the human rights of persons held in Central American prisons. This report is based on reports submitted by national human rights organizations which are members of CODEHUCA and consider that flagrant violations of human rights are a regular feature of penitentiary institutions in the area. In some cases these violations reflect established and systematic practices; in others they are due to a lack of financial resources as a result of which prisoners, both male and female, are unable to live in a dignified manner in those institutions.

2. In Costa Rica one of the principal problem-generating factors in the penitentiary system is the overcrowding among the prisoners. This situation has negative effects on their hygiene conditions and health. The Defender of Prisoners' Rights denounced this situation; his action led to his dismissal, and the programme is being closed down.

3. In addition, the Costa Rican Commission on Human Rights (CODEHU) reports that some 80% of the prisoners are taking drugs and that some of the psychotropic drugs are supplied by the prison staff. This situation leads to fights and killings in the prisons; five murders were committed during the first six months of 1993.

4. In El Salvador, in the early hours of 18 November 1993, a mutiny broke out in the San Francisco Gotera Penal Centre (Morazán Department). It degenerated into what can only be described as a massacre of prisoners. The governor and the warders did not intervene, but confined themselves to protecting the material installations of the premises, ostensibly to prevent escapes. The outcome was that 27 prisoners were killed and 35 seriously wounded. The bodies bore the marks of multiple wounds; two had been decapitated and several were charred. The post-mortem examinations carried out by the Roberto Masferrer Institute of Forensic Medicine revealed that some of the remains contained high concentrations of marijuana and diazepam.

5. The El Salvador Office for Human Rights undertook an inquiry to establish whether any violations of human rights had occurred. It concluded that "the State has failed to discharge its constitutional obligations to organize the penitentiary centres in such a way as to correct the behaviour of delinquents, to re-educate them and to develop the habit of work among them, thus promoting their rehabilitation and the prevention of crime."It also pointed out that the events at Gotera could and should have been avoided if the authorities, both in the prison itself and at the level of the Directorate-General of Penal Centres, had taken the measures appropriate to the urgency of the situation, such as the strengthening of security in the prison blocks or cells, the transfer of prisoners whose deaths or executions had been announced to other penal centres, etc. It also observed that the situation in the Gotera penal centre falls short of the minimum conditions necessary to guarantee the rights of the prisoners, who are living under subhuman conditions. It also considers that the State has tolerated or permitted cruel or inhuman treatment of the prison population.

6. In February 1994 a mutiny broke out in the penal centre in Santa Ana, the country's second city. Nine people were killed (six prisoners were decapitated) and over 10 wounded. Most of the victims were former members of the armed forces who had been sentenced for violations of human rights during the war.

7. In Guatemala former members of the armed forces imprisoned for murder announced that they would supply information on clandestine cemeteries and prisons located in military areas, bases and schools, on the death squads and on the involvement of members of the legislature and the armed forces in drug trafficking and the laundering of dollars. To prevent them from speaking out, members of the military intelligence service of the Guatemalan army (G-2) offered them money, sinecures and extra pay, and subjected them to a campaign of intimidation.

8. In October 1993 four detainees in the preventive centre in Zone 18 were found dead in their cells. The government alleged that the four had committed suicide. Following the post-mortem examinations, the Toxicology Institute of the San Carlos University stated that "the deaths were caused by poisoning with barbiturates and strangulation with a fine cord or hanging with a towel".

9. It is presumed that the four prisoners were murdered to prevent the imprisoned ex-members of the armed forces from divulging information on the death squads, since one of the victims was a close friend of one of the ex-members concerned.

10. The Nicaraguan Commission on Human Rights (CENIDH) has denounced a further deterioration in the standards of feeding, clothing and health in the penal centres in the country following a reduction in the budget for the national penitentiary system in 1993. Large numbers of the inmates are suffering from undernourishment, as their diet contains only 400 calories per day. This has led to a situation in which some of the inmates of the model penal centre in Tipitapa have been eating the cats which used to prowl in the neighbourhood of the installations. The inmates have had their dental care suspended and their supplies of medicines and medical care reduced. Basic conditions of hygiene are not met; conditions in the cells are unacceptable; there are shortages of beds, mattresses and blankets. Water is in short supply and is generally contaminated. Physical conditions in the penitentiaries are disastrous to the point of endangering the safety of the inmates.

11. According to the CENIDH, the head of the national penitentiary system has stated that, owing to this neglect, some inmates have committed suicide, while other are planning escape. The frequency of violence and attacks of prisoners on one another or on members of the prison staff has increased.

12. In 1994 the government increased the budget of the national penal system by 7 million cordobas, but only for food; no provision was made for the other basic necessities.

13. In Panama the National Commission on Human Rights (CONADEHUPA) reported that the prison system in that country was one of the worst in Latin America. In addition to suffering from the deficiencies common to all the countries in the region, the prisons in Panama suffer from severe overcrowding.

14. In March 1994 the Minister of Government and Justice revealed that the model prison in Panama City, which had been built to house 250 inmates, currently had a population of 1,822; that the prison in David, built for 280 inmates, currently held 469; that the prison in Colón, built for 250, contained 900; and that the women's prison, which contained 300 inmates, had room for only 175.

15. In Honduras, on 28 February 1994 CODEHUCA received a report from members of the family of William Alfredo Calvo Loria, a Costa Rican national, held in the central penitentiary in Tegucigalpa. Since 1992 he had been confined in an area approximately 6 metres by 6 in dimension together with some 30 foreign detainees of various nationalities. During his detention he had been repeatedly subjected to cruel, inhuman and degrading treatment. In 1993 he was placed incommunicado in a punishment cell without clothing; water was constantly thrown over him and his normal food ration was stopped. This situation lasted 13 days.

16. In Honduras there are individuals - both men and women - who have been detained for years without trial and who are sometimes acquitted when their cases are finally heard. According to a count taken in 1993, out of 5,360 men held in detention, only 830 (15.48%) were actually sentenced; 4,530 (84.52%) were not sentenced. Of the 92 women detained, 8 (8.69%) were sentenced and 84 (91.31%) were not.

Conclusions

17. The States of Central America are not giving the attention they should to dealing with the appalling conditions of overcrowding and of feeding and health prevailing among prison inmates, both male and female, and which violate fundamental human rights.

18. It would appear that less value is attached to the human rights of persons deprived of liberty than to those of other persons. There is a generalized acceptance of the idea that prisoners deserve to be chastised, tortured and subjected to cruel and inhuman treatment or punishment.

19. The situation of prisoners who are non-nationals is even more serious. They do not enjoy the legal benefits or assistance facilities (such as release on bail, conditional sentences, etc.) available to nationals. Occasionally the ill-treatment to which they are subjected is due to xenophobia.

20. CODEHUCA is therefore pressing for the signature and ratification of the American Convention concerning the Execution of Penal Sentences in Foreign Countries; so far only Costa Rica has signed it.

21. In our view, one means of securing respect for the human dignity of condemned persons of either sex is to enable them to serve their sentences in their countries of origin, where they will benefit from the economic support and the affection of their families and be able to enjoy all the rights enshrined in the legislation applicable to prisoners.

22. CODEHUCA requests that the governments of central America be urged -

(a) To revise their national budgets relating to their penitentiary systems to take into account the numbers of persons imprisoned and conditions in the penal centres;

(b) To grant fair compensation to - (i) persons who have spent long periods in prison without trial and are subsequently acquitted or declared innocent; (ii) prisoners whose human rights have been violated through negligence on the part of the prison authorities; where a prisoner dies, the entitlement should pass to his family;

(c) To fix in the criminal law of their respective countries, a maximum period during which a person may be held without being sentenced. Where this period expires without a trial having taken place, the detainee would automatically be released.